IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEALS Nos. 1424 to 1438 of 2000
and
FIRST APPEALS Nos. 7642 to 7656 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPL.LAQ OFFICER

Versus

CHANDRASINH MOHANSINH DECD. THRO' HEIRS GUNVANTSINH CHANDR

Appearance:
MS RV ACHARYA, ld.AGP for appellants.
MR VIJAY N RAVAL for respondent-claimants

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 23/04/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

In the matters of acquisition of lands from village Kantol which are the subject matter of First Appeals Nos.1424 to 1438 of 2000, whereas common questions based on identical facts are involved, we propose to decide all these 30 First Appeals by this common judgment and order as under:

2. The group of First Appeals Nos.1424 to 1438 of 2000 (15 in number) filed by the Special Land Acquisition Officer, (Narmada Project), Unit-II, Vadodara and the Executive Engineer, Narmada Project, Vadodara under Section 54 of the Land Acquisition Act, 1894 read with Sec.96 of the CPC is directed against the common judgment and order passed on 31st Oct.1999 by the 2nd Jt.Civil Judge (S.D.), Godhra, Dist.Panchmahals in Land Acquisition Reference Cases No.112/90, 138/90 to 151/90 pertaining to acquisition of lands from village Kantol, Taluka Kalol, Dist. Panchmahals (Godhra).

3. The other group, i.e. First Appeals Nos.7642 to 7656 of 1999 filed by the Special Land Acquisition Officer (Narmada Project), Unit-II, Vadodara and the Executive Engineer, Narmada Project, Vadodara under Sec.54 of the Land Acquisition Act, 1894 read with Sec.96 of the CPC is directed against the common judgment and order passed by the Civil Judge (S.D.), Godhra, Dist. Panchmahals, in Land Acquisition Reference Cases No.55/90 to 69/90 relating to the acquisition of the lands from village Kantol, Taluka Kalol, Dist.Panchmahals (Godhra).

4. In First Appeals Nos.1424 to 1438 of 2000, the date of issue of the notification under Sec.4 of the Land Acquisition Act was 11th Aug.1986 and the notification under Sec.6 was published on 5th Nov.1987. The award was passed on 10th Nov.1989 and the possession of the lands in question was taken on 28th Dec.1989. The Land Acquisition Officer had determined the rate of compensation as Rs.2.70 per sq.mtr. for irrigated lands and Rs.1.80 per sq.mtr. for non-irrigated lands. The claimants took the matter for reference under Sec.18 of the Land Acquisition Act and the Reference Court decided the Land Acquisition Reference Cases Nos.112/90, 138/90 to 151/90 by consolidating these reference cases and the Reference Court has determined the rate of compensation at Rs.14/- per sq.mtr. along with other allied reliefs and this order dated 31st Oct.1999 is the subject matter of challenge before us in this group of appeals.

5. In the other group of appeals, i.e. F.A. Nos.7642 to 7656 of 1999, the lands of the same village Kantol were sought to be acquired for the same purpose, i.e. for the purpose of construction of Narmada Main Canal and the notification under Sec.4 had been issued on 11th Sept.1986 and the notification under Sec.6 had been published on 29th Dec.1987. The award was passed on 29th July 1989 and in this case, the Land Acquisition Officer had determined the rate of compensation as Rs.2/- per sq.mtr. The claimants were not satisfied and took the

matter under Sec.18 of the Land Acquisition Act and the Reference Court has determined the compensation payable at additional rate of Rs.12/- per sq.mtr. making the total amount per Sq.mtr. to be Rs.14/- along with other reliefs and this order dated 21st April 1999 has been made the subject matter of challenge in this group of appeals.

6. It is the common case of both the sides that these matters are fully covered by earlier decisions of this Court rendered in First Appeals Nos.1369 to 1378 of 2000 decided on 9th Aug.2000 which was also a case of acquisition of lands of village Kantol for the same purpose and the group of First Appeals Nos.445 to 462 of 2000 decided on 11th Sept.2000 which too was a case of acquisition of lands of village Kantol for the same purpose. It has further been submitted by both the sides that another group of First Appeals Nos.2427 to 2444 of 2000 was also decided by this Court on 10th April 2001 and in that group of appeals also, the question of acquisition of the lands of village Kantol was there for the same purpose, i.e. construction of Narmada Main Canal. It is also the common case of the parties that in the three groups which had been decided earlier, the date of issue of notification under Sec.4 was in the year 1986 and in all these matters, the compensation has been granted at the rate of Rs.14/- per sq.mtr. and therefore, no interference whatsoever is warranted with the order as has been passed.

7. Ms.R.V.Acharya, ld.AGP has however pointed out that in certain matters, out of this group of First Appeals Nos.1424 to 1438 of 2000, there are new tenure lands but her submission is that the Reference Court has not directed the deduction of 5% Government share out of the compensation in cases of new tenure lands also. She has submitted that such deduction has to be made in accordance with the provisions of Sec.11A of the Gujarat State Amendment in the Land Acquisition Act and this Court, in many cases has issued such deductions. She has pointed out that out of this group of First Appeals No.1424 to 1438 of 2000, the cases in First Appeals No.1424/2000, 1426/2000, 1433/2000 to 1438/2000, i.e. eight appeals in all, are matters of New Tenure lands.

8. We have already taken a considered view in this regard in other cases, i.e. First Appeals Nos. 2129 to 2134 of 1995 with 2136 to 2142 of 1995 with 2618 to 2631 of 1995 decided on 20/27-2-2001 that such 5% deduction of Government share has to be made. We accordingly order that the cases in which there is any new tenure land, the

5% Government share shall be deducted out of the amount of compensation and for such cases, the award shall stand modified accordingly.

9. Accordingly, out of the group of First Appeals Nos.1424 to 1438 of 2000, eight appeals i.e. First Appeals No.1424/2000, 1426/2000 and 1433/2000 to 1438/2000 are partly allowed and it is directed that in these eight matters of new tenure lands, the award shall be modified so as to allow 5% deduction of Government share out of the amount of compensation and in rest of the seven cases in which there are no new tenure lands, i.e. First Appeals Nos. 1425/2000 and 1427/2000 to 1432/2000, the appeals are hereby dismissed with no order as to costs and the rate as has been determined at Rs.14/- per sq.mtr. is maintained.

10. The group of First Appeals Nos.7642 to 7656 of 1999 is hereby dismissed with no order as to costs. All these 30 First Appeals in these two groups are decided accordingly.

It is expected that the due amount of compensation shall be paid to the claimants within a period of three months from the date the certified copy of this order is served upon the concerned authority.

23rd April 2001 (M.R. Calla, J.)

(D.H.Waghela, J.)

Sreeram.